



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,595

04/12/2004

Eric Ojard

15241US02

2845

23446 7590 07/26/2007
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

VO, DON NGUYEN

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/822,595	OJARD, ERIC	
	Examiner	Art Unit	
	DON N. VO	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,11,12,14-16 and 21-26 is/are rejected.
- 7) ☒ Claim(s) 3,7-10,13 and 17-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/19/04 & 1/27/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 2, 11, 12 and 21-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 22, and 23 of U.S. Patent No. 6,327,311. Although the conflicting claims are not identical, they are not patentably distinct from each other because communications over the UWB wireless transmission channel is well known in the art.

The corresponding of claims is as follow:

Claim 1 of U.S. Patent No. 6,327,311 to claims 1, 2, 11, 12 and 26 of the instant application;

Claim 2 of U.S. Patent No. 6,327,311 to claim 21 of the instant application;

Claim 22 of U.S. Patent No. 6,327,311 to claims 22, 23 and 25 of the instant application; and

Claim 23 of U.S. Patent No. 6,327,311 to claim 24 of the instant application.

The different between the claims as listed above is that the claims of the instant application include communications over the UWB wireless transmission channel. However, communications over the UWB wireless transmission channel is well known in the art of digital communications and it is obvious to modify the method and apparatus as claimed in the U.S. Patent No. 6,327,311 to communicate over the UWB wireless transmission channel since it would not involve any inventive feature.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-6 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitations of "said second passband single carrier transmitter" and "said second piconet" recited in claim 4, lines 3 and 4 lack antecedent basis.

Similar problems exist for the same recitations recited in claim 14, lines 4 and 5.

The recitation of "said first piconet" recited in claim 5, line 2 lacks antecedent basis. Similar problem exists for the same recitation recited in claim 15, line 2.

The recitation of "said first piconet" recited in claim 6, line 2 lacks antecedent basis. Similar problem exists for the same recitation recited in claim 16, lines 3-4.

It appears that the dependency of claims 4-6 and 14-16 are in error which results lack of antecedent basis as noted above. For example, claim 4 should have been dependent from claim 3 since it is further limiting the recitation of claim 3. Should the dependency of claim 4 is changed to claim 3; the antecedent basis problem will be fixed. Similar suggestion is for claims 5, 6 and 14-16.

Allowable Subject Matter

5. Claims 3, 7-10, 13 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 4-6 and 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Application/Control Number: 10/822,595

Page 5

Art Unit: 2611


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References Melick et al (US 2005/0240607) and Linebarger et al (US 7,035,663) are cited because they are pertinent to UWB communication system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DON N. VO whose telephone number is (571) 272-3018. The examiner can normally be reached on Mon-Fri (9:00AM - 6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAY PATEL can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DON N. VO
Primary Examiner
Art Unit 2611